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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,560

03/17/2004

Ellen Glassman

SOA-394

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RADER FISHMAN & GRAUER PLLC  
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WASHINGTON, DC 20036

EXAMINER

YOO, JASSON H

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

06/30/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* ELLEN GLASSMAN,  
DAVID FARRAGE, YUMIKO TAKAGI,  
MICHELLE KOZA,  
and PAUL H. FEINBERG

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Application 10/803,560  
Technology Center 3700

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Mailed: June 30, 2009

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Before ERIC W. HAWTHORNE, *Supervisory Paralegal Specialist*  
HAWTHORNE, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on June 10, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing:

EXAMINER'S ANSWER  
GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A review of the file finds that the grounds of rejection to be reviewed on appeal of the claims as provided in the Examiner's Answer mailed September 17, 2007, under the heading "Grounds of rejection to be Reviewed on Appeal" is either unclear or is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection to be reviewed on appeal as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Furthermore, the Examiner must provide a clear statement of whether examiner agrees or disagrees with the statement of grounds of rejection to be reviewed as set forth in the brief and an explanation of any disagreement. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

A review of the last Final Office Action identifies a ground of rejection of claim 34 under 35 U.S.C. 112, 6<sup>th</sup> paragraph. (Office Action 3). However, the Examiner's Answer fails to identify or provide the status of the rejection under 35 U.S.C. § 112.

Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed September 17, 2007;

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2) to generate a new Examiner's Answer setting forth the correct Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required;

3) to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and

4) for such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797

EWH/lis

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